

**§ 113A-208. Regulation of mountain ridge construction by counties and cities.**

(a) Any county or city may adopt, effective not later than January 1, 1984, and may enforce an ordinance that regulates the construction of tall buildings or structures on protected mountain ridges by any person. The ordinance may provide for the issuance of permits to construct tall buildings on protected mountain ridges, the conditioning of such permits, and the denial of permits for such construction. Any ordinance adopted hereunder shall be based upon studies of the mountain ridges within the county, a statement of objectives to be sought by the ordinance, and plans for achieving these objectives. Any such county ordinance shall apply countywide except as otherwise provided in G.S. 160A-360, and any such city ordinance shall apply citywide, to construction of tall buildings on protected mountain ridges within the city or county, as the case may be.

A city with a population of 50,000 or more may adopt, prior to January 1, 1986, an ordinance eliminating the requirement for an elevation of 3,000 feet, as permitted by G.S. 113A-206(6).

(b) Under the ordinance, permits shall be denied if a permit application (and shall be revoked if a project) fails to provide for:

- (1) Sewering that meets the requirements of a public wastewater disposal system that it discharges into, or that is part of a separate system that meets applicable State and federal standards;
- (2) A water supply system that is adequate for fire protection, drinking water and other projected system needs; that meets the requirements of any public water supply system that it interconnects with; and that meets any applicable State standards, requirements and approvals;
- (3) Compliance with applicable State and local sedimentation control regulations and requirements; and
- (4) Adequate consideration to protecting the natural beauty of the mountains, as determined by the local governing body.

(c) Permits may be conditioned to insure proper operation, to avoid or mitigate any of the problems or hazards recited in the findings of G.S. 113A-207, to protect natural areas or the public health, and to prevent badly designed, unsafe or inappropriate construction.

(d) An ordinance adopted under the authority of this section applies to all protected mountain ridges as defined in G.S. 113A-206. A county or city may apply the ordinance to other mountain ridges within its jurisdiction if it finds that this application is reasonably necessary to protect against some or all of the hazards or problems set forth in G.S. 113A-207. Additionally, a city with a population of 50,000 or more may apply the ordinance to other mountain ridges within its extraterritorial planning jurisdiction if it finds that this application is reasonably necessary to protect against some or all of the hazards or problems set forth in G.S. 113A-207.

(e) Determinations by the county or city governing board of heights or elevations under this Article shall be conclusive in the absence of fraud. Any county or city that adopts a ridge ordinance under the authority of this section or other authority shall send a copy of the ordinance to the Secretary of Environmental Quality.

(f) Any county or city that adopts an ordinance pursuant to this section must hold a public hearing before adopting the ordinance upon the question of adopting the ordinance or of allowing the construction of tall buildings on protected mountain ridges to be governed by G.S. 113A-209. The public hearing required by this section shall be held upon at least 10 days' notice in a newspaper of general circulation in the unit adopting the ordinance. Testimony at the hearing shall be recorded and any and all exhibits shall be preserved within the custody of the governing body. The testimony and evidence shall be made available for inspection and scrutiny by any person.

(g) Any resident of a county or city that adopted an ordinance pursuant to this section, or of an adjoining county, may bring a civil action against the ordinance-adopting unit, contesting the ordinance as not meeting the requirements of this section. If the ordinance is found not to meet all of the requirements of this section, the county or city shall be enjoined from enforcing the ordinance and the provisions of G.S. 113A-209 shall apply. Nothing in this Article authorizes the State of North Carolina or any of its agencies to bring a civil action to contest an ordinance, or for a violation of this Article or of an ordinance adopted pursuant to this Article. (1983, c. 676, s. 1; 1985, c. 713, ss. 2, 4; 1989, c. 727, s. 218(78); 1997-443, s. 11A.119(a); 2015-241, s. 14.30(v).)